REMARKS

I. Introduction

In response to the Office Action dated May 22, 2006, claims 3, 6-8, 26, 28-29, 38, 40-42, 60-61, 63 and withdrawn claims 69-102 have been cancelled, claims 1, 22, 24, 35, 36, 56, 58, and 59 have been amended, and 103-106 have been added. Claims 1, 2, 4, 5, 9-25, 27, 30-37, 39, 43-59, 62, 64-68 and 103-106 remain in the application. Re-examination and re-consideration of the application, as amended, is requested.

II. Claim Amendments

Applicants' attorney has made amendments to the claims as indicated above. These amendments are fully supported by the specification as filed and introduce no new matter.

III. Prior Art Rejections

In the outstanding office action, the claims were rejected in view of a number of art references including Dugmore, WO 00/56384. Applicants respectfully traverse these rejections in view of the amendments to the claims made hereinabove. A review of the Dugmore reference, the other references cited by the Examiner, and the invention recited in the amended claims as well as the reasons for traversing the various rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a) are provided below.

1. THE DUGMORE REFERENCE AND THE SUBJECT INVENTION

The Dugmore Reference

Dugmore, WO 00/56384 teaches an adjustable and retractable needle assembly designed to withdraw blood from a patient. The invention disclosed in Dugmore is constructed to protect phlebotomists from needle sticks by having an adjustable needle assembly comprising a needle housing, a first needle guide passage defined in a front end of the housing, a needle that is axially slidable within the passage, and needle length adjusting means, wherein the guide passage defines a central guide axis, and the needle length adjusting means is arranged to deviate the needle laterally relative to the guide axis to adjust the distance that the needle projects from the housing.

As described for example in the first full paragraph bridging pages 8 and 9 and shown in Figures 1-12, this apparatus for withdrawing blood from an individual includes a fluid conduit in the form of a needle having a first sharp front end that functions to pierce the skin of the individual to withdraw blood from a vein. As also described first full paragraph bridging pages 8 and 9 and shown in Figures 1-12, this fluid conduit in the form of a needle further includes a second sharp back end that functions to pierce the stopper of a vacuum phial. When the phlebotomist uses the first end of the needle to pierce the skin and the second end of the needle to pierce the phial stopper, the resulting direct communication with the vacuum chamber defined within the phial results in blood being drawn from the vein into the phial via the needle.

Invention Recited in the Amended Claims

The claims have been amended hereinabove to focus on an embodiments of the invention designed to deliver a fluid and treat a physiological condition. In this context, the apparatus comprises a flexible conduit housing including a flexible conduit having an end adapted to connect to an infusion device and deliver a fluid from the infusion device through the flexible conduit to an individual having the physiological condition; a base for temporarily housing the flexible conduit, the base having an opening for receiving the flexible conduit; and a cover attached to the base for substantially closing the opening; and an interface for mounting the flexible conduit housing; and wherein the flexible conduit is dispensable with the flexible conduit housing to a fixable variable length.

2. APPLICANTS' RESPONSE TO THE REJECTIONS UNDER 35 U.S.C. 102(b)

On page (2) of the Office Action, claims 1-5, 13-14, 17-20, 22-27, 31-39, 43-45, 47-48, 51-54, 56-59, and 64-68 were rejected under 35 U.S.C. §102(b) as being anticipated by Dugmore, WO 00/56384 (Dugmore).

Applicants respectfully traverse this rejection because for example the Dugmore reference fails to teach or suggest an apparatus comprising a flexible conduit having an end adapted to connect to an infusion device and deliver a fluid from the infusion device through the flexible conduit to an individual having the physiological condition. In particular, the apparatus disclosed in Dugmore is designed to withdraw blood from an individual and deliver it to a blood collection phial,

not to deliver a fluid medication from an infusion device in to an individual. Because the apparatus disclosed in Dugmore is designed to perform a completely different procedure, Dugmore fails to mention infusion devices anywhere in the disclosure, much less a fluid conduit having an end adapted to connect to an infusion device. Instead, the Dugmore disclosure teaches a fluid conduit having **two sharp ends**, a first sharp end that is designed to pierce a vein and a second sharp end that is designed to pierce a vacuum phial. Because those of skill in the art are acutely aware of the infection and contamination danger associated medical devices having a sharp end (e.g. an end designed to pierce a blood collection phial), the skilled artisan would not utilize a piercing member such as a needle in a fluid conduit adapted to connect with an infusion device. Moreover, a piercing member as shown in Dugmore cannot be used to adequately engage an infusion pump without leaking fluids etc (i.e. it will not function for this purpose). Consequently, a disclosure of a needle designed to pierce a blood phial and deliver blood into its interior is not a disclosure of a fluid conduit having an end adapted to connect to an infusion device and deliver a fluid from the infusion device through the flexible conduit to an individual having the physiological condition.

As noted in M.P.E.P. 2131, to anticipate a claim, a reference must teach every element of a claim. In particular, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single art reference. Because the Dugmore disclosure fails to teach or suggest a fluid conduit having an end adapted to connect to an infusion device, this disclosure cannot anticipate the claimed invention. For this reason, Applicants respectfully request a withdrawal of the rejection under 35 U.S.C. §102(b).

In addition, because the device disclosed in Dugmore is designed to perform a completely different procedure, this reference fails to teach or suggest a fluid conduit having an end adapted to connect to an infusion device. Consequently, this disclosure cannot be combined other disclosures in a manner that renders the claimed invention obvious. Moreover, a detailed analysis of the Dugmore disclosure shows that any modification to the Dugmore apparatus that would lead to the claimed invention (i.e. a modification where sharp second end of the needle is removed and replaced with an end adapted to connect with an infusion device), would not have been obvious because such a modification would in fact compromise the operability of the Dugmore apparatus. In particular, such a modification to Dugmore's. pointed second end of the needle conduit would inhibit its ability to pierce the stopper of the blood collection phial. Because Dugmore understandably provides no

motivation to modify the invention in a manner that would compromise its operability, this reference cannot be used to render the claimed invention obvious.

In order to establish *prima facie* obviousness of a claimed invention, all the limitations must be taught or suggested by the prior art. M.P.E.P. 2143.03, *In re Royka*, 490F.2d 981 (CCPA 1974). Moreover, as noted in M.P.E.P. 2141.02 and 2145, a proposed modification cannot render the prior art unsatisfactory for its intended purpose or change the principle of operation of a reference. Because a modification to the Dugmore apparatus that would result in the invention recited in the pending claims would compromise the operability of the Dugmore apparatus, thereby rendering it unsatisfactory for its intended purpose, the skilled artisan could not have been motivated to make such a modification. For this reason, the disclosure in Dugmore, ether alone or in combination with other references, cannot be used cannot be used to render the claimed invention obvious.

3. APPLICANTS' RESPONSE TO THE REJECTIONS UNDER 35 U.S.C. 103(a)

On page (3) of the Office Action, claims 6, 16, 29, 42, 46, and 50 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dugmore in view of Buyce et al., U.S. Patent No. 6,554,218 (Buyce).

Applicants respectfully traverse this rejection because the disclosure in Buyce fails to remedy the deficiencies of the Dugmore disclosure. In particular, Buyce teaches a cable management spool designed for example to hold computer cables (see, e.g. FIG. 1). Buyce provides no disclosure relating to any type of infusion devices or associated components, much less a flexible conduit having an end adapted to connect to an infusion device and deliver a fluid from the infusion device through the flexible conduit to an individual having the physiological condition. For this reason, the Dugmore and Buyce disclosures cannot be combined to produce the claimed invention. Consequently, the claimed invention would not have been obvious in view of Dugmore and Buyce. Because the Dugmore and Buyce disclosures cannot be combined in a manner that produces the claimed invention, Applicants respectfully request a withdrawal of the rejections to claims 6, 16, 29, 42, 46, and 50 under 35 U.S.C. §103(a).

On page (4) of the Office Action, claims 7, 8, 28, 40, 41, and 60-63 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dugmore in view of Buyce and in further view of Connelly et al., U.S. Patent No. 6,589,229 (Connelly).

Applicants respectfully traverse this rejection because the disclosure in Connelly fails to remedy the deficiencies of the Dugmore and Buyce disclosures. In particular, Connelly teaches a compact integrated device that **uses flow channels and not flexible conduits** to deliver fluids. Connelly teaches that this compact design that uses flow channels is designed to overcome problems associated with existing fluid delivery devices. Moreover, the Connelly patent in fact **teaches away** from the invention recited in the amended claims by teaching that infusion tubing that is used to link an infusion pump with the delivery site (e.g. on a user's abdomen) is very inconvenient and the pumps are relatively heavy, making carrying pumps a bother (see, e.g. column 2, lines 19-27). This teaching in Connelly would not have motivated artisans to combine this disclosure with the Dugmore and Buyce disclosures so as to arrive at the claimed invention. For example, as noted in M.P.E.P. 2145(D)(2), references cannot be combined where a reference teaches away from its intended purpose. For this reason, Applicants respectfully request a withdrawal of the rejection claims 7, 8, 28, 40, 41, and 60-63 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dugmore in view of Buyce and in further view of Connelly.

On page (5) of the Office Action, claims 9-11, 15, 21, 49, and 55 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dugmore in view of Fike, U.S. Patent No. 4,844,373 (Fike).

Applicants respectfully traverse this rejection because the disclosure in Fike fails to remedy the deficiencies of the Dugmore disclosure. In particular, Fike teaches a line storage and dispensing device that is designed for use in repelling, river patrolling, camping, with a bomb detonator control cord in booby trap situations etc. (see, e.g. FIG. 1 and column 6, lines 60-65). Fike provides no disclosure relating to any type of infusion devices or associated components, much less a flexible conduit having an end adapted to connect to an infusion device and deliver a fluid from the infusion device through the flexible conduit to an individual having the physiological condition. For this reason, the Dugmore and Buyce disclosures cannot be combined to produce the claimed invention. Consequently, the claimed invention would not have been obvious in view of Dugmore and Buyce.

Because the Dugmore and Buyce disclosures cannot be combined in a manner that produces the claimed invention, Applicants respectfully request a withdrawal of the rejections to claims 9-11, 15, 21, 49, and 55 under 35 U.S.C. §103(a).

On page (5) of the Office Action, claims 12 and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dugmore in view of Fike and in further view of Buyce.

Applicants respectfully traverse these rejections. As noted above, neither the Fike nor the Buyce references provide any disclosure whatsoever relating to any type of infusion device or associated components, much less a flexible conduit having an end adapted to connect to an infusion device and deliver a fluid from the infusion device through the flexible conduit to an individual having the physiological condition. For this reason, the Dugmore and Buyce and Fike disclosures cannot be combined to produce the claimed invention. Consequently, the claimed invention would not have been obvious in view of combination of Dugmore and Buyce and Fike. Because these disclosures cannot be combined in a manner that produces the claimed invention, Applicants respectfully request a withdrawal of the rejections to claims 12 and 30 under 35 U.S.C. §103(a).

4. APPLICANTS' NEW CLAIMS 103-106

In order to clarify the claimed invention and further the prosecution of the pending claims, the original claims were amended to focus on embodiments of the invention comprising a flexible conduit having an end adapted to connect to an infusion device and deliver a fluid from the infusion device through the flexible conduit to an individual having the physiological condition.

For this reason, original dependent claims relating to embodiments of the invention where the flexible conduit comprises an electrical cable were cancelled. New claims 103-106 now recite this embodiment of the invention. New claims 103-106 further recite an electrical cable having an end adapted to connect to a medical sensor monitor.

In providing new claims 103-106, Applicants note that the Dugmore, Buyce, Fike and Connelly references fail to anticipate or render the invention recited in these new claim obvious. In particular, the Dugmore, Fike, Connelly references do not teach or suggest apparatuses that utilize any electrical cable, much less an electrical cable having an end adapted to connect to a medical

sensor monitor. Moreover, while Buyce teaches a cable management spool designed for example to hold electrical cables, this is designed for office use, in particular to hold computer cables and the like. Consequently, Buyce fails to teach or suggest using its device with any medical sensor, much less using its device with an electrical cable having an end adapted to connect to a medical sensor monitor.

Finally, the various elements of Applicants' claimed invention together provide operational advantages over Dugmore, Buyce, Connelly, and Fike. In addition, Applicants' invention solves problems not recognized by Dugmore, Buyce, Connelly, and Fike.

Thus, Applicants submit that independent claims 1, 24, 35, 58, 103 and 105 are allowable over Dugmore, Buyce, Connelly, and Fike. Further, dependent claims 2-23, 25-34, 36-57, 59-68, 104 and 106 are submitted to be allowable over Dugmore, Buyce, Connelly, and Fike in the same manner, because they are dependent on independent claims 1, 24, 35, and 58, respectively, and thus contain all the limitations of the independent claims. In addition, dependent claims 2-23, 25-34, 36-57, and 59-68 recite additional novel elements not shown by Dugmore, Buyce, Connelly, and Fike.

IV. Conclusion

In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicants' undersigned attorney.

Respectfully submitted,

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